

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

IN RE MICROSOFT CORPORATION)
ANTITRUST LITIGATION)

)
This Document Relates to:)
MDL Docket No. 1332
Burst.com, Inc. v. Microsoft Corp.)

)
Civil action No. C-02-2930-VRW)

)

AGREED MOTION FOR LEAVE TO AMEND

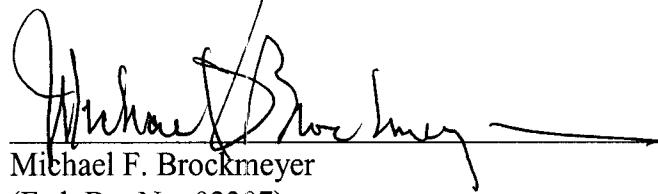
Defendant, Microsoft Corporation, moves for leave to amend its Answer and Counterclaim. Microsoft seeks to add an affirmative defense and corresponding counterclaim count asserting that Burst committed inequitable conduct in prosecuting the patents-in-suit, making the patents unenforceable. Microsoft learned of the facts underlying this defense after filing its original Answer and Counterclaim. This amendment will not affect the schedule in this case.

The parties have conferred on this issue. Plaintiff, Burst.com, does not oppose Microsoft receiving leave to amend its Answer and Counterclaim.

Pursuant to Local Rule 103.6, Microsoft's Amended Answer and Counterclaim is attached hereto as Exhibit A and the highlighted version is attached hereto as Exhibit B.

Dated: December 10, 2003

Respectfully submitted,



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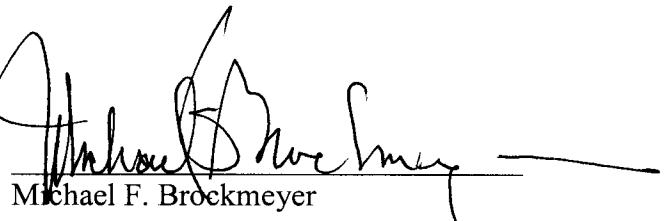
Attorneys for Defendant Microsoft Corporation

CERTIFICATE OF SERVICE

The undersigned attorney for Microsoft hereby certifies that on December 10, 2003 he sent a true and exact copy of AGREED MOTION FOR LEAVE TO AMEND, WITH EXHIBITS THERETO, AND A PROPOSED ORDER via facsimile and overnight courier to:

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Michael F. Broekmeyer

A handwritten signature in black ink, appearing to read "Michael F. Broekmeyer", is written over a horizontal line. The signature is fluid and cursive.